

**THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CRIMINAL CASE NO. 1:08-cr-00016-MR**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MATTHEW JAMES DURY,

Defendant.

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ORDER

THIS MATTER is before the Court upon the Defendant's "Motion for Clerk of Court to Obey Federal Rules of Appellate Procedure Rule 3(d)(1) Serving Notice of Appeal." [Doc. 215].

In his motion, the Defendant claims that he was not provided a copy of the Notice of Appeal that he filed on November 9, 2021.¹ The Court will direct the Clerk to provide a courtesy copy of the Notice of Appeal [Doc. 209] to the Defendant.

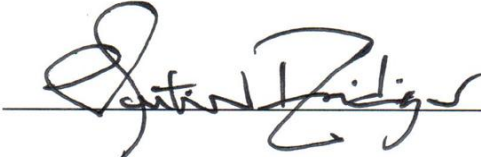
¹ The Defendant asserts that his Notice of Appeal was filed on November 8, 2021 [see Doc. 215 at 1]; however, the envelope in which the Defendant mailed the Notice of Appeal indicates that the Notice of Appeal was delivered to prison authorities for mailing on November 9, 2021 [Doc. 209-1]. See Houston v. Lack, 487 U.S. 266, 271-72 (1988) (establishing the mailbox rule).

IT IS, THEREFORE, ORDERED that the Defendant's "Motion for Clerk of Court to Obey Federal Rules of Appellate Procedure Rule 3(d)(1) Serving Notice of Appeal" [Doc. 215] is **DENIED AS MOOT**.

The Clerk of Court is respectfully directed to provide a copy of the Notice of Appeal [Doc. 209] to the Defendant.

IT IS SO ORDERED.

Signed: December 8, 2021



Martin Reidinger
Chief United States District Judge

